

**Notice of Allowability**

Application No.

10/759,782

Examiner

Prabodh M. Dharia

Applicant(s)

MARKS, RICHARD L.

Art Unit

2629

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-01-2007.
2. ☒ The allowed claim(s) is/are 1-18 and 34-50.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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1. **Status:** Please all the replies and correspondence should be addressed to Examiner's new art unit 2629. Receipt is acknowledged of papers submitted on 10-15-2007 under amendments, and request for reconsideration, which have been placed of record in the file. Claims 1-18 and 34-50 are pending in this action. Claims 19-33 are cancelled.

***Response to Amendment***

2. The amendment filed 10-01-2007 does not introduce any new matter into the disclosure. The added material is supported by the original disclosure. Applicant has amended independent claims 1, 11, 34 and 41 adding allowable limitations and cancelled claims 19-33 to expedite allowability of the instant application.

3. Applicant has amended independent claims 1, 11, 34 and 41 adding allowable limitations and cancelled claims 19-33 to expedite allowability of the instant application. Applicant arguments filed on 10-01-2007, under remark regarding allowable limitations "identifying a light source within the field of view, the light source being pointed in the direction of the image capture device; tracking the light source as it is pointed toward the display screen, the display screen illustrating objects that can be interacted with; detecting a change in light emitted from the light source; and in response to detecting the change, triggering an input command at the program run on the computing system, the input command acting to interface with one or more objects illustrated on the display screen" are persuasive; as after further extensive search and consideration, the amended independent claims 1,11,34 and 41 do overcome the prior art

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rejection mailed on 06-25-2007, which puts application number 10759782 in condition for allowance.

4. The closest prior art recited on 892's to applicant's teaching; Eberl, Heinrich A et al. (US 2002/0101568 A1); discloses a method and information system for capturing signals, for processing signals, and for providing signals at least partially based on, or bearing correlation to, the captured signals. The information system includes a signal input unit, a wireless communication unit, and an output unit. The signal input unit (preferably an optical signal unit) is constructed and is positionable to capture signals associated with an eye. The output unit is constructed to provide information based on the captured signals or to provide information as a function of the captured signals or in correlation with the captured signals. The signal input unit is an optical signal unit for capturing optical data (e.g., ultraviolet, visible or infra-red). The optical signal unit can capture data by scanning or large image detection using light sensitive arrays like CCDs. In some embodiments, the signal input unit may be integrated with the output unit, and may also include an information unit. The optical apparatus is connected to a processor unit via connection lines. If the optical apparatuses comprise photo-detectors and/or light sources, the connection lines serve the transmission of electrical detection and/or control signals. The photo-detectors and/or light sources can, however, be located in the processor unit and be connected to the optical apparatuses of the spectacles via light-conducting connection lines. A further possibility of controlling the data view and signal processing set-up--implemented of a control menu onto the operator's retina via the optical unit. Since the image on the retina is captured cyclically, preferably with a sampling frequency of 100 Hz, the optical unit, in conjunction with

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the processor unit, can determine, at any point in time, which image is situated at the center of the field of vision since this image is held in the fovea centralis. When the operator thus focuses on a particular menu item or a blended-in program control symbol and when, at this point in time, a particular trigger signal is generated, the corresponding operation is called. The trigger signal can be generated by a suitable button provided on the system, via in an optical manner, e.g. by using a blink of an eye consciously executed at that moment as a trigger.

However, the prior art of Eberl, Heinrich A et al. (US 2002/0101568 A1) fails to recite or disclose the uniquely distinct features of the independent claims limitations below in combination with all the other limitations of independent claims recited:

“identifying a light source within the field of view, the light source being pointed in the direction of the image capture device; tracking the light source as it is pointed toward the display screen, the display screen illustrating objects that can be interacted with; **detecting a change in light emitted from the light source; and in response to detecting the change, triggering an input command at the program run on the computing system**, the input command acting to interface with one or more objects illustrated on the display screen.”

***Allowable Subject Matter***

5. Claims 1-18 and 34-50 are allowed.
6. The following is an examiner's statement of reasons for allowance:

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Applicant has amended independent claims 1, 11,34 and 41 adding allowable limitations and cancelled claims 19-33 to expedite allowability of the instant application and to overcome prior art rejection.

Applicant's arguments filed on 10-01-2007 are convincing. As argued by applicant in remarks under claim rejection page 8, last paragraph, page 9, paragraphs 3-5, and page 10, paragraphs 1; prior art of Pryor (US 2006/ 0033713 A1) and Curran et al. (US 6,753,849 B1) with all of the other prior art cited on 892's 1449's, searched in NPL and searched in PG PUB, fails to recite or disclose all the other limitations of independent claims in combination with uniquely distinct features represented by underlined bold claim limitations recited below;

**identifying a light source within the field of view, the light source being pointed in the direction of the image capture device; tracking the light source as it is pointed toward the display screen, the display screen illustrating objects that can be interacted with; detecting a change in light emitted from the light source; and in response to detecting the change, triggering an input command at the program run on the computing system, the input command acting to interface with one or more objects illustrated on the display screen.**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prabodh M Dharia whose telephone number is 571-272-7668.

The examiner can normally be reached on M-F 8AM to 5PM.

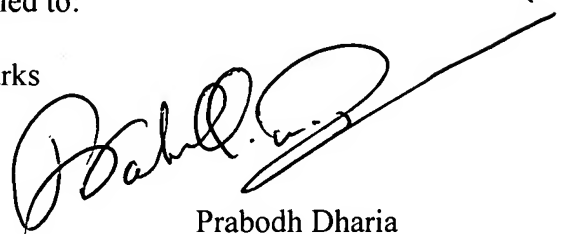
8. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

A handwritten signature in black ink, appearing to read 'Prabodh Dharia', with a long horizontal line extending from the end of the signature.

Prabodh Dharia

Full Signatory Authority Program

AU2629

11-05-2007